



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

[Docket No. FHWA-2012-0126]

Public-Private Partnerships Public Meeting and Request for Comment

AGENCY: Federal Highway Administration (FHWA)

ACTION: Public meeting notice; request for comment.

SUMMARY: The USDOT/FHWA is tasked by MAP-21 to develop “standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction and operation of transportation facilities.” We invite the public to provide ideas and comments on what should be included or excluded from such model public-private partnership (P3) contracts. The comments can be made to the docket or at a Listening Session in the District of Columbia.

DATES: Comments must be received on or before May 31, 2013. Late comments will be considered to the extent practicable. The Listening Session will be conducted on Wednesday, January 16, 2013, from 12:00 PM to 4:00 PM, e.t.

ADDRESSES:

Comment Submission:

Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590, or fax comments to (202) 493-2251. Alternatively, comments may be submitted via the Federal eRulemaking Portal at <http://www.regulations.gov> (follow the on-line instructions for submitting comments). All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or

you may print the acknowledgment page that appears after submitting comments electronically. All comments received into any docket may be searched in electronic format by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Persons making comments may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70, Pages 19477-78).

Listening Session Location:

The listening session will be held at the U.S. Department of Transportation located at 1200 New Jersey Avenue, SE., Washington, D.C. 20590.

FOR FURTHER INFORMATION: For further information regarding this notice please contact Prabhat Diksit via e-mail at Prabhat.diksit@dot.gov or via telephone at (720) 963-3202.

SUPPLEMENTARY INFORMATION:

I. Background:

Public-private partnerships are contractual arrangements between public and private sector entities that allow for greater participation by the private sector in the delivery of surface transportation projects and services. Generally, in addition to designing or building a project, which is traditional, a private partner in a P3 may be involved in designing, constructing, financing, operating and maintaining the project. By transferring certain risks and responsibilities to the private partner, P3s can result in more efficient and effective project delivery. However, P3 contracts are complex and are of much longer duration than traditional construction contracts. Their terms and conditions address many requirements not covered by traditional construction contracts such as financing arrangements and performance during a concession period, among others. Public agencies generally acquire special expertise to ensure that they can successfully

negotiate P3 agreements. Congress, recognizing both the growing interest in this delivery option, as well as the inherent complexities in P3 agreements, tasked the USDOT, via the Moving Ahead for Progress in the 21st Century Act (MAP-21), to develop “standard public-private partnership model contracts” and to “encourage states, public transportation agencies and other public officials to use the model contracts as a base template”.

II. Purpose of this Notice

Section 1534(d) of MAP-21, enacted October 1, 2012, requires the USDOT to develop model P3 contracts that could serve as a base template and guide States and other public transportation providers in developing their own P3 contracts. The legislation states:

(d) STANDARD TRANSACTION CONTRACTS.—

(1) DEVELOPMENT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop standard public-private partnership transaction model contracts for the most popular types of public-private partnerships for the development, financing, construction, and operation of transportation facilities.

(2) USE.—The Secretary shall encourage States, public transportation agencies, and other public officials to use the model contracts as a base template when developing their own public-private partnership agreements for the development, financing, construction, and operation of transportation facilities.

The USDOT, prior to undertaking this effort, wishes to engage in a dialogue and canvass the opinion of interested parties—including, among others, public project sponsors, and their consultants, advisers, and attorneys; private sector designers, builders, operators, contractors and other engineering and construction firms; banks, lenders, funds, and other financing institutions involved in P3s; unions and their representatives; concessionaires and other organizations involved in project development; and members of the general public. Interested parties are asked

to provide comments to the docket regarding the development and use of the standard public-private partnerships transaction model contracts mentioned above in the legislation. Interested parties are also invited to provide input at a Listening Session at USDOT Headquarters in Washington, D.C., on January 16, 2013.

Listening Session

The Listening Session will be 4 hours in length and will be structured around the legislative requirements of Section 1534(d) specified above. Some of the topics that may be considered at this listening session include:

- a) the design of the model contract template (for example, should it provide options or recommendations?);
- b) the scope of the model contract (for example, should it include public protections?);
- c) the specific provisions included in the model contract (for example, which public protections should be addressed?); and
- d) the model contracts that should be delivered first (for example, should the initial set of templates include P3 availability payment concessions for managed lanes?).

Listening Session Information

E-mail comments can be provided to the docket at www.regulations.gov.

The Listening Session will be held on January 16, 2013, from 12:00 PM to 4:00 PM, e.t., at the U.S. Department of Transportation building at 1200 New Jersey Ave., S.E., Washington, D.C., 20590. Because access to the DOT building is controlled, all visitors must sign in with the security staff at the West Building entrance, present valid picture identification, be escorted and wear a visitor's badge at all times while in the building.

Due to security procedures and space limitations, individuals who wish to attend the listening session must pre-register online by 5:00 PM, e.t., on January 14, 2013, to gain

admittance to the building. Space is limited to the first 250 registrants. The link for the registration is: <http://152.122.41.186/registration/p3listening.aspx>. Anyone with difficulties registering should contact Terrance Regan, at this telephone number: (617) 494-3628.

Attendees are encouraged to arrive early for processing through security. All participants and attendees must enter through the New Jersey Avenue entrance (West Building – at the corner of New Jersey Avenue and M Street, S.E.). Photo identification is required and Foreign National attendees must bring their passports with them. Participants or attendees who have Federal government identification will still need to register to attend. To facilitate security screening, all participants and attendees are encouraged to limit the bags and other items (laptops, cameras, etc.) they bring into the building. Anyone exiting the building for any reason will be required to re-enter through the security checkpoint at the New Jersey Avenue entrance.

The DOT does not offer visitor parking; we suggest that attendees consider using alternative means of transportation to the building. DOT Headquarters is served by Metrorail (Navy Yard station), Metrobus, DC Circulator, and taxi service. There are a number of private parking lots near the DOT buildings, but the DOT cannot guarantee the availability of parking spaces.

For information on facilities or services for persons with disabilities, or to request special assistance at the meeting, contact Prabhat Dikshit (720) 963-3202 as soon as possible.

Issued on: January 2, 2013

Victor M. Mendez
Administrator

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